

**APPLICANTS:**  
**Blake and Peggy Canfield**

**REQUEST:** Special exceptions for commercial vehicle and equipment storage and construction services in the Agricultural District

**HEARING DATE:** September 11, 2006

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
**Case No. 5553**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Blake E. Canfield

**CO-APPLICANT:** Peggy A. Canfield

**LOCATION:** 2618 Greene Road, Baldwin  
Tax Map: 47 / Grid: 1A / Parcel: 511 / Lot: 3  
Fourth (4<sup>th</sup>) Election District

**ZONING:** AG / Agricultural

**REQUEST:** A special exception, pursuant to Section 267-53D(1) of the Harford County Code, to allow commercial vehicle and equipment storage, and a special exception pursuant to Section 267-53H(1) to allow construction services in the Agricultural District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

This application requests special exception approval to allow commercial vehicle and equipment storage, and a construction services business, on an 8 acre agriculturally zoned and improved property located on Greene Road in Baldwin. The subject property is improved by a single-family dwelling, with attached 4-bay garage, occupied by the Applicants Blake and Peggy Canfield and their 3 children. Also located on the subject property is a free standing "pole" type building which is used to store the Applicants' contractors' equipment.

The Co-Applicant, Blake Canfield, testified that he had purchased the subject property in 1986 and since that time has operated his family owned home repair business known as Blake Canfield & Son, Inc. Blake Canfield & Son, Inc. employs as many as 10 employees, most of whom go directly to the job site without visiting the subject property. Some of the employees drive company vehicles and take those company vehicles home, and not to the job site. Most of the company vehicles do not come onto the subject property.

Mr. Canfield stated there will be no retail sales from the subject property; no customers will visit the subject property; and he is not seeking to expand his business in any way. The Applicants seek permission to locate various pieces of equipment on the site.

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The Applicants had submitted a list of the equipment they will store on the subject property. That list is noted as Attachment 15 to the Staff Report and describes the following pieces of equipment:

- 1 Large Truck
- 1 Large Pickup Truck
- 1 Utility Truck
- 1 Close-in Trailer
- 2 Dump Trailers
- 1 Camping Trailer
- 1 Small Trailer
- 2 Equipment Trailers
- 2 Backhoe
- 1 Skid Loader
- 1 Brush Chipper
- 5 Trash Cans
- 1 Flat Bed

Next for the Applicants testified Doug Kopeck, employed by CNA Engineering. Mr. Kopeck was offered and accepted as an expert land planner and landscape architect. Mr. Kopeck explained that the landscape plan for the subject property had been prepared under his supervision. That landscape plan – Attachment 4 to the Staff Report – shows both existing and proposed landscaping around the area in which the contractors' equipment will be stored. For the most part the equipment will be stored on the parking area shown on the site plan, within an existing pole barn, and in a small area located within a roughly 40 foot by 20 foot area directly behind (to the east) of the existing pole barn.

Mr. Kopeck described the existing white pine screening as being approximately 25 feet tall. A buffer of at least 10 feet in width will be maintained along each side of the storage area. Mr. Kopeck explained that once supplemented by proposed plantings the equipment and storage area, which is for the most part now fully screened, will be even more fully screened from all surrounding neighbors and the public road.

Mr. Kopeck does not believe the use will have any adverse impact on adjoining properties or neighbors. The proposed use is consistent with the Harford County Master Plan and fully complies with all applicable limitations, guides and standards.

Mr. Canfield, offering additional testimony, stated that minor maintenance is performed on the vehicles on-site, including the replacement of motor oil. All motor oil is properly handled and removed from the site on a regular basis, according to the witness. Nothing beyond minor maintenance and routine lubrication is performed on the equipment. No motor fuel beyond that which is contained in small fuel containers is maintained on-site. The equipment which Mr. Canfield will be keeping on-site has been delineated on the list previously noted as Attachment 15 to the Staff Report. Mr. Canfield notes that the commercial vehicles are normally stored within the existing 3 bay garage and the other equipment is usually stored in the pole barn.

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Mr. Canfield also earlier filed letters from various surrounding neighbors who expressed no opposition to the request. Those letters are marked in the file as Attachment 13 to the Staff Report.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune, in reiterating the findings of the Staff Report, states that the Applicant can meet or exceed all applicable standards and recommends the special exceptions be granted.

The landscaping plan submitted by the Applicants is adequate. Mr. McClune stated that the Department has made a series of recommended conditions within the Staff Report. Mr. McClune does not believe the proposed use should adversely impact traffic conditions in the neighborhood or neighboring properties.

Addressing the landscaping issue, the Staff Report observed:

*“The Applicants have a large paved parking area to the south side of the dwelling and to the west side of the pole building. The Applicants intend to park the vehicles and equipment either in this area or within the pole building and garage. This area is already screened from the properties fronting on Greene Road to the south. Along the property line are mature white pines and a hedge row approximately 40-foot wide. A similar row of screening runs along the rear property line on the adjoining property. The Applicant has submitted a landscaping plan to further screen the parking area. The existing and proposed landscaping will screen the use from the adjoining properties and Greene Road.”*

Next testified John E. Callahan, who resides at 2612 Greene Road, Baldwin, Maryland, a neighbor of the Applicants. Mr. Callahan generally described the Applicants as being good neighbors. Mr. Callahan expressed his concern about possible environmental pollution from the use. Mr. Callahan is also concerned the operation not become any larger than it is at present. Furthermore, he does not wish the proposal to set a precedent in the area. He does not wish to have further commercial uses in the area, nor does he wish the Applicants’ operation to become any larger than it is at present. He feels that an expansion beyond its present size would cause an adverse impact.

No other testimony or evidence was presented in opposition.

### **APPLICABLE LAW:**

Section 267-53D(1) of the Harford County Code states:

*“D. Motor Vehicle and related services.*

- (1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provided that:*

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- (a) *The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*
- (b) *The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*
- (c) *A minimum parcel area of two (2) acres shall be provided.”*

Section 267-53H(1) of the Harford County Code, states:

*“H. Services.*

- (1) *Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to a residential lot or visible from a public road.”*

Section 267-9I of the Harford County Code, Limitations, Guides and Standards, is also applicable to this request and will be discussed in further detail below.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants are the owners of an approximately 8 acre parcel located on Greene Road, west of Baldwin Road and south of Fallston Road in the Upper Crossroads area of Harford County. The parcel is somewhat irregularly shaped, with only a very small “panhandle” frontage on Greene Road. Much if not all of the area which is used for parking and storage of the contractors’ equipment used in Mr. Canfield’s home improvement business is fully screened by mature plantings.

Mr. Canfield has apparently been operating his home improvement business from the subject property since 1986 without proper permits. It only become clear to the Department of Planning and Zoning that this was an improper use at such time as Mr. Canfield applied for permits for other uses on-site, including the construction of a pole barn.

Nevertheless, and in spite of a long history of non-permitted use, Mr. Canfield appears to operate a relatively low key and clean operation. No neighbors objected to the proposed use and, in fact, many neighbors submitted documentation of their lack of objection. However, a very close neighbor, Mr. Callahan, while not expressing objections to the current operation, very clearly expressed concerns that the operation not increase in size and scope, or that the operation be used to somehow justify other commercial intrusions into his neighborhood. Mr. Callahan’s objections and concerns are well noted, and are legitimate.

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The Applicants have expressed their intent to maintain the operation at its present size and, while they may replace equipment from time to time, they will not be storing or parking additional equipment or vehicles on-site. Given the relatively harmonious existence of the business since 1986, the lack of neighborhood opposition to it, and with the Applicants' agreement to conditions to maintain the operation at its present size and scope, there appears to be no obvious adverse impact on the neighborhood.

Nevertheless, the specific standards of the two special exception requests must be examined to determine if all particular requirements are met.

The Applicants request a special exception to Section 267-53D(1) for commercial vehicle and equipment storage. These uses may be granted in the AG District provided that:

### **Commercial vehicle and equipment storage.**

- (a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*

Testimony is uncontradicted, especially by Mr. Callahan who has a very direct of the property, that the vehicles and equipment cannot be seen from adjoining residential properties or from the public road. Much of the equipment will be stored within existing structures or on the delineated parking areas which, again, are fully screened. Screening will be supplemented by the Applicant. Nevertheless, a condition will be appended to this recommended decision that all landscaping be supplemented as offered by the Applicants, and that landscaping be maintained in the future.

- (b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*

The Applicants propose no sales or service of other construction or industrial equipment. Accordingly, a condition will be appended to this recommended decision to prohibit such sales or service.

- (c) A minimum parcel area of two (2) acres shall be provided.*

The Applicants meet this requirement by having 8 acres of property.

Accordingly, the Applicants fully meet all applicable conditions of Section 267-53D(1).

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The Applicants further ask for special exception approval pursuant to Section 267-53H(1) as follows:

### **Construction services and suppliers.**

*These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to a residential lot or visible from a public road.*

As noted above, the Applicants fully meet these requirements.

While meeting the specific special exception requirements of the Harford County Code, the Applicants must further meet the more general standards of Section 267-9I, Limitations, Guides and Standards. Those considerations are addressed as follows:

(1) *The number of persons living or working in the immediate area.*

As noted above, most of the neighbors (including Mr. Callahan), gave statements expressing no objection to the request. In fact, while not to be condoned, it is in fact true that Mr. Canfield has operated the business from the subject property without a permit for almost 20 years with no apparent objection. Accordingly, there should be little or no adverse impact on individuals living or working in the immediate area.

(2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The Department of Planning and Zoning Staff finds there will be no adverse impact on traffic in the area. The Applicants' expert witness reached the same conclusion. There is simply no evidence of a real or potential impact on traffic, and it is accordingly found there will be no such adverse impact.

(3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

The use is permitted in an Agricultural District as a special exception provided all specific generalized requirements are met. Nevertheless, Mr. Callahan's concerns about future expansion are well taken. A condition will be appended to this recommended decision that prohibits expansion above the present use as described by Mr. Canfield.

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- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

There should be no impact on any of these considerations. Nevertheless, a condition will be appended to this recommended decision that requires the Applicants' to properly dispose of all oil, anti-freeze, hydraulic fluid and other such lubricants and petroleum products. Mr. Canfield will further be required to submit a document to the Harford County Department of Planning and Zoning outlining his procedures for disposing of such materials.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Fallston and Jarrettsville Volunteer Fire Departments will provide fire protection and emergency service. The property is serviced by a private well and septic system. A private trash collector will handle trash removal.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The finding of the Harford County Department of Planning and Zoning that the request is consistent with generally accepted planning principles and practices is accepted.

- (7) *The structures in the vicinity, such as schools, houses or worship, theaters, hospitals, and similar places of public use.*

No such structures have been identified.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal, as stated by the Harford County Department of Planning and Zoning, is consistent with the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The proposal should have no impact on surrounding natural features.

- (10) *The preservation of cultural and historic landmarks.*

No such landmarks have been identified.

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The Applicants fully meet all requirements of Harford County Code Section 267-9I, Limitations, Guides and Standards.

Finally, the proposed special exceptions must be reviewed in light of the guidance given by Schultz v. Pritts, 291 Md. 1 (1981). As special exceptions, the proposed uses share a presumption that they are in the best interest of the general welfare and are accordingly presumed to be valid. See People's Counsel v. Mangione, 85 Md. App. 738 (1991). A special exception is analogous to a permitted use and is permitted in its particular district provided all specific and general conditions have been met.

Furthermore, and perhaps more importantly, there must be a finding that there is no greater harm at the proposed location than there would be, by this or a similar use, at any other permitted location within the zone.

It is accordingly found, for reasons discussed in more detail above, that the proposed use, while it certainly may have potential for an adverse impact if it were to grow or change to a more intense or expanded use in the future, would at present, and as described by the Applicants, cause no more of an adverse impact at the proposed site than it would at any other location within the zone.

For these reasons it is found that the uses fully comply with the Schultz v. Pritts standards and that the special exceptions should be granted.

### **CONCLUSION:**

It is accordingly recommended, for reasons set forth above, that the requested special exceptions be granted, subject to the following conditions:

1. The Applicants shall submit a detailed site plan to be reviewed and approved thru the Development Advisory Committee.
2. The Applicants shall not exceed the existing number of vehicles, trailers and equipment as set forth on Attachment 15 to the Staff Report. The Applicants may replace any vehicles, trailers and equipment as necessary but the replacement shall not in any fashion cause a greater impact than the equipment as described by the Applicants and shown on Attachment 15. The scope, intensity and size of the commercial activity on-site shall not expand beyond that as exists at present.
3. There shall be no sales or service of any construction equipment. Minor, routine maintenance on the Applicants' vehicles shall be allowed.
4. The Applicants shall submit to the Harford County Department of Planning and Zoning written procedures for the handling, storage, and disposal of waste oil and other petroleum products. These procedures shall be updated as necessary and subject to verification by inspection by the Harford County Department of Planning and Zoning.



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5. The equipment, vehicles and trailers shall be stored within the existing garages and pole building or located in the parking area to the west of the pole building and in that approximately 20 feet by 40 feet area shown to the east of the pole building.
6. The Applicants shall comply with the plantings as shown on its landscape plan. All vegetative screening shall be supplemented by the Applicants, and shall be maintained and replaced as necessary.
7. The approvals are for the Applicants use only and shall terminate should the property, or the business located on the property, be sold or transferred.

Date: October 6, 2006

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on NOVEMBER 3, 2006.**